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DEPARTMENT OF EDUCATION
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CANDICE MCQUEEN
COMMISSIONER

MEMORANDUM

TO: Directors of Special Education

FROM: Theresa Nicholls
Assistant Commissioner, Special Populations and Student Support

DATE: July 26, 2018

RE: Amendment to Special Education Programs and Services-Parent Participation

On April 20, 2018, the state board of education passed on final reading an amendment to [Special Education Programs and Services-Parent Participation, Rule 0520-01-09-.15](#) that requires parents receive a copy of a draft Individualized Education Program (IEP) at least 48 hours before a scheduled IEP meeting, if the school or district creates such a draft. Parents may decline their right to receive a copy of the draft IEP if one is developed.

The purpose of this memorandum is to provide guidance to ensure meaningful parental participation and compliance with this rule.

State rules and regulations are effective 90 days after submission to the secretary of state's office. Therefore, this rule will become official sometime during the fall semester and updates to EasyIEP will be made at that time to reflect the changes outlined in this memo. In order to prepare for these changes, it is advised that directors of special education share this information with applicable staff and begin making preparations for any necessary changes in practice. The department will communicate the effective date as soon as it becomes known.

Draft IEPs

In order for parents to have the opportunity to review new information prepared for IEP team consideration, a "draft IEP" means any portion of the IEP with new information to be reviewed by the IEP team at an IEP team meeting. Team members may prepare notes, assessment data, etc., prior to an IEP team meeting; however if this information is synthesized into the format required for IEP development (e.g., organized in the workspace of EasyIEP or compiled in a generated draft document), it must be shared with parents at least 48 hours before a scheduled IEP meeting unless parents decline their right to receive a draft IEP.

Annual IEP Meetings and Amendments to the IEP

Parents will indicate whether they want a copy of the draft IEP, if one is developed, on the parent response section of the meeting notification. Unless parents indicate they waive their right to receive a copy of the draft IEP if one is developed, school districts must do one of the following:

- Develop a new IEP at the IEP team meeting with the full team present;
 - Consider using a copy of the student's current IEP as a frame of reference and to structure discussions.
 - After the meeting, a draft document should still be generated in EasyIEP prior to finalization in order to check for errors.

OR

- Prepare a draft IEP at least 48 hours before a scheduled IEP team meeting.
 - Coordinate with parents to determine the best method for delivering draft IEP documents to ensure student confidentiality. A sample cover letter is provided [here](#) to accompany draft documents.
 - Document all attempts to coordinate and deliver draft documents under the "contacts" tab in EasyIEP.

Initial IEP Meetings

If a student has been referred for an initial evaluation, a district **should not** generate a draft IEP document prior to an eligibility determination meeting. Doing so could be construed as pre-determination. Once a student has been found eligible, districts must do one of the following:

- Develop an initial IEP at the eligibility determination/IEP team meeting with the full team present;
 - After the meeting, a draft document should still be generated in EasyIEP prior to finalization in order to check for errors.

OR

- Reconvene within 30 calendar days to develop an initial IEP and follow the same guidelines as for an annual IEP meeting (see above).

The IEP Informed Parental Consent page of the IEP document will be updated for parents to indicate one of the following: a copy of their child's draft IEP was received at least 48 hours prior to the IEP meeting, if one was developed; a draft IEP was not developed prior to the IEP meeting; or they waived their right to a copy of the draft IEP.